

REMARKS

Claims 32-47 are pending in the present application, with claims 32 and 43 being independent. The examiner rejected claims 43, 44, 46, and 47 under 35 U.S.C. § 103(a) as allegedly being obvious over U.S. Patent No. 6,535,726 (hereinafter Johnson) in view of U.S. Patent No. 5,960,069 (hereinafter Felger) and U.S. Patent No. 6,324,394 (hereinafter Vazvan). The examiner rejected claims 32-42 and 45 under 35 U.S.C. § 103(a) as allegedly being obvious over Johnson in view of U.S. Patent No. 6,356,752 (hereinafter Griffith).

Claim Rejections Under 35 U.S.C. § 103

The examiner rejected claims 43, 44, 46, and 47 under 35 U.S.C. § 103(a) as allegedly being obvious over Johnson in view of Felger and Vazvan. Applicants respectfully traverse that rejection and request reconsideration.

The proposed modification of Johnson lacks one or more limitations recited in independent claim 43 in at least the following respects.

- As acknowledged by the examiner, Johnson fails to teach or suggest debiting at least one account of the customer substantially in real-time in response to the debit message, as recited in independent claim 43. Rather, Johnson discloses billing a customer. According to Johnson, the cellular network processes transaction charges against the customer's cellular telephone account, and the charges later appear on the customer's cellular telephone bill. (See, e.g., Johnson, Col. 6, lines 17-21). Accordingly, Johnson recites payment through a regular billing cycle, not substantially real-time debiting, as recited in independent claim 43.
- Felger fails to remedy the deficiencies of Johnson. Felger teaches a method of billing a call where a caller can transfer billing information directly to an operator. (See, e.g., Felger, Col. 15, lines 34-55). Felger describes the billing as "real time debit of the caller's account" but does not actually teach substantially real-time debiting of an account. According to Felger, the so-called "debit" process involves "forward[ing] the actual charge data to the credit agency or bank."

(Felger, Col. 15, lines 51-52). Moreover, this process occurs “[w]hen the call is completed.” (Felger, Col. 15, line 50). Thus, according to Felger, the operator actually “forwards” charge data but does not debit an account, and the charge forwarding occurs after the call’s completion—not substantially in real time.

- Vazvan also fails to remedy the deficiencies of Johnson. Vazvan discloses a system for monitoring mobile telecommunications in a multi-operator environment. Vazvan teaches a system allowing mobile telephone users to access mobile networks with various mobile terminals using a unique subscriber number. (See, e.g., Vazvan, Col. 4, lines 54-59). According to Vazvan, the unique subscription number for a user is accepted by all operators. (See, e.g., Vazvan, Col. 2, lines 25-31). In addition, according to Vazvan, a mobile services operator can directly charge the mobile subscriber in real time for telephone calls. (See, e.g., Vazvan, Col. 5, lines 15-23). By contrast, Johnson teaches transmitting retail transaction charges through a cellular network to be charged against a customer’s cellular telephone account. (See, e.g., Johnson, Col. 4, lines 20-24). One skilled in the art could not simply graft Vazvan’s real-time charging capabilities for telephone service onto Johnson’s method for transmitting retail transaction charges. There is an immense difference between charging a telephone user for calls made on a connected network of telephone operators and allowing a cellular telephone user to make retail transactions at an unconnected array of retailers. Whereas Vazvan simply uses a central registration for mobile telephone usage, Johnson requires complicated transaction interaction between a cellular telephone and a site computer or point of sale, thus requiring a transaction-by-transaction interaction for each retailer. (See, e.g., Johnson, Col. 5, lines 45-46 (“where upon the IKD 130 transfers select site information to the cellular telephone 140”)). By contrast, Vazvan resolves no similar problem because each charge relates to a telephone call accessed by dialing a terminal number. (See, e.g., Vazvan, Col. 4, lines 57-59). Consequently, site-specific billing information need not be transmitted to the telephone. In other words, in Vazvan, the mobile telephone is not used as a payment mechanism; rather, it is used for its intended purpose as a

telephone. Accordingly, it would not have been obvious for one skilled in the art to modify Johnson in view of Vazvan.

Consequently, Johnson and/or Felger and Vazvan do not, separately or in combination, recite the required combination of limitations of independent claim 43. Because the cited references, either alone or in combination, do not teach the limitations of independent claims 43, the examiner has failed to establish the required *prima facie* case of unpatentability. See In re Royka, 490 F.2d 981, 985 (CCPA 1974) (holding that a *prima facie* case of obviousness requires the references to teach all of the limitations of the rejected claim); see also MPEP § 2143.03. Similarly, the examiner has failed to establish a *prima facie* case of unpatentability for claims 44, 46, and 47, depending on claim 43, and which recite further specific elements that have no reasonable correspondence to Johnson, Felger, and/or Vazvan.

The examiner rejected claims 32-42 and 45 under 35 U.S.C. § 103(a) as allegedly being obvious over Johnson in view of Griffith. Applicants respectfully traverse that rejection and request reconsideration. The proposed modification of Johnson in view of Griffith fails to disclose or even suggest the required combination of limitations of claim 32 on which claims 33-42 depend and/or amended claim 43 on which claim 45 depends, in at least the following respects.

- As discussed above and as acknowledged by the examiner, Johnson fails to teach or suggest debiting of the customer account substantially in real-time responsive to customer manipulation of the wireless remote data terminal input keys, as recited in independent claim 32, or debiting at least one account of the customer substantially in real-time in response to the debit message, as recited in independent claim 43. As discussed above, Johnson recites payment through a regular billing cycle, not substantially real-time debiting, as recited in independent claims 32 and 43.
- Also as acknowledged by the examiner, Johnson fails to disclose a wireless remote data terminal including a system for generating second data representing

an amount and communicating the second data from the wireless remote data terminal to the computer via a wireless telecommunications network, as recited in independent claim 32. Rather, Johnson recites a transaction total information relayed from a point of sale to an in-kiosk device back to a supporting cellular network. (See, e.g., Johnson, Col. 6, lines 12-17; see also Johnson, Col. 7, lines 58-67). Accordingly, the point of sale—not the cellular network—generates and transmits the transaction data.

- Griffith fails to remedy the deficiencies of Johnson. Rather than teach debiting of the customer account substantially in real-time responsive to customer manipulation of the wireless remote data terminal input keys, Griffith recites “specifying the type of account against which the transaction is to be billed.” (See, Griffith, Col. 2, lines 12-13). Similarly, Griffith recites use of a credit card for a transaction. (See, e.g., Griffith, Col. 3, lines 53-56). A credit card transaction results in the customer receiving a bill each month, after which the customer pays the bill and the credit card company processes the payment to debit the customer’s account. Consequently, Griffith does not recite real-time debiting, as required by claims 32 and 43.
- In addition, Griffith does not teach a wireless remote data terminal including a system for generating second data representing an amount and communicating the second data from the wireless remote data terminal to the computer via a wireless telecommunications network. Rather, Griffith teaches a wireless telephone that connects to a site computer, which controls transaction units. (See, e.g., Griffith, Col. 3, lines 20-21; Col. 3, lines 46-48). According to Griffith, the site computer generates transaction data including an itemized list of items by price, and the wireless telephone simply stores and responds to the data generated by the site computer. (See, e.g., Griffith, Col. 4, lines 3-8). As a result, the wireless telephone does not generate and communicate data representing an amount, as required by claim 32.

Consequently, the claimed combinations recited in independent claim 32 on which claims 33-42 depend and/or independent claim 43 on which claim 45 depends are not taught or suggested by Johnson and/or Griffith, either separately or in combination with one another. Because the cited references, either alone or in combination, do not teach the limitations of independent claims 32 and 43, the examiner has failed to establish the required *prima facie* case of unpatentability. See In re Royka, 490 F.2d 981, 985 (CCPA 1974) (holding that a *prima facie* case of obviousness requires the references to teach all of the limitations of the rejected claim); see also MPEP § 2143.03. Similarly, the examiner has failed to establish a *prima facie* case of unpatentability for claims 33-42 depending on claim 1 and claim 45 depending on claim 43 and which recite further specific elements that have no reasonable correspondence to Johnson and/or Griffith.

Summary

Thus, Applicants submit that independent Claims 32 and 43 are patentable over the documents cited by the examiner. Additionally, the remaining claims depend from one of the independent claims either directly or indirectly and are submitted to be patentable for similar reasons. The dependent claims also recite additional features further defining the present invention over the cited documents, and Applicants submit that the cited documents do not teach or suggest integrating those features into the presently claimed invention. Accordingly, Applicants request separate and individual consideration of each dependent claim.

Applicants have not addressed each specific rejection of the independent and dependent claims because Applicants submit that the independent claims are allowable over the documents of record, as discussed above. Applicants have not acquiesced to any such rejection and reserve the right to address the patentability of any additional claim features in the future.

CONCLUSION

Applicants submit the foregoing as a full and complete response to the Office Action dated October 3, 2007. Applicants submit that this Response places the application in condition for allowance and respectfully request such action. Applicants submit that the amendments made herein and the remarks provided above do not present any new issues for review by the examiner. If any issues exist that can be resolved with an examiner's Amendment or a telephone conference, please contact Applicants' undersigned attorney at the number listed below.

Respectfully submitted,

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